

Item: Amendment, Qualified Allocation Plan (QAP), and Procedural Manual, and Self-Scoring Worksheet, 2017 and 2018 Housing Tax Credit (HTC) Program

Staff Contact(s):

Kayla Schuchman, 651.296.3705, kayla.schuchman@state.mn.us

Request Type:

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| <input checked="" type="checkbox"/> Approval | <input type="checkbox"/> No Action Needed |
| <input checked="" type="checkbox"/> Motion | <input type="checkbox"/> Discussion |
| <input type="checkbox"/> Resolution | <input type="checkbox"/> Information |

Summary of Request:

Staff requests initial approval of amendments to the 2017 and 2018 Housing Tax Credit Program Qualified Allocation Plans (QAP), Procedural Manuals, and Self-Scoring Worksheets. Following a public comment period, staff anticipates seeking final approval of these amendments at the December 2016 Board meeting.

Fiscal Impact:

Housing Tax Credits are a federally sponsored program and will not have any direct fiscal impact on the Agency's financial condition. However, recommendations contained in this board memo and the proposed amendments to the QAP may have a significant impact on the ability of the Agency to have access to tax-exempt bonding authority to conduct its single family and multifamily program activities.

Meeting Agency Priorities:

- ☒ Address Specific and Critical Local Housing Needs
- ☒ Finance Housing Responsive to Minnesota's Changing Demographics
- ☒ Preserve Housing with Federal Project-Based Rent Assistance
- ☒ Prevent and End Homelessness
- ☐ Reduce Minnesota's Racial and Ethnicity Homeownership Disparity

Attachment(s):

- Background
- Current and Amended 4% Tax Credit Requirements

At the May 26, 2016 board meeting, the Minnesota Housing board approved several revisions to the 2018 Qualified Allocation Plan (QAP), including revisions affecting the requirements for allocating 4% housing tax credits associated with tax exempt Private Activity Bonds. These revisions were proposed partially in response to public comments concerning the increasing scarcity of tax-exempt Private Activity Bonds allocated to the State by federal law. The commenters requested that the Agency closely manage the allotment of authority for Private Activity Bonds (PAB) for affordable housing, assigned, by Minnesota statute to governmental issuers. When projects receive an allocation of PABs for affordable rental housing, they must separately request an allocation of 4% housing tax credits from Minnesota Housing (or from the City of Minneapolis, the City of St. Paul, Dakota County or Washington County for projects located in those jurisdictions) if they wish to use such credits. Accordingly, Minnesota Housing and the other tax credit sub-allocators must address the requirements for allocating 4% housing tax credits within their QAPs.

At that time, staff recommended and the Board approved a 40 point minimum score in order to receive an allocation of 4% credits under the 2018 QAP, increased from a previous minimum score of 30 points. The Board also approved a new policy that Minnesota Housing will not allocate 4% tax credits to support an allocation of Private Activity Bonds in an amount greater than 53 percent of a project's eligible cost basis, as defined in low income housing tax credit rules.

Since May the demand for Private Activity Bonds for affordable housing has continued to be strong. The remaining balance of 2016 PAB authority (for affordable housing and other purposes) at Minnesota Management and Budget (MMB) for non-entitlement issuers was approximately \$20 million as of the writing of this report. By comparison, over the past five calendar years the unused non-entitlement bonding authority at the time MMBs authority lapses has ranged from \$164 million to \$313 million. The amount of total unused PAB authority carried over by entitlement issuers (Minnesota Housing, Cities of Minneapolis and St. Paul, and Dakota County) for affordable housing at the end of the calendar year has, on average, been over \$800 million over the past five years. This year, the amount of unallocated bonding authority available for carry forward by entitlement issuers could well be below \$400 million by year-end and, if market conditions remain favorable, could be significantly lower than that in future years.

Staff is now proposing amendments to the 2017 QAP and the 2018 QAP as a means of ensuring that 4% housing tax credits are awarded to projects that meet the highest priority affordable rental housing needs in the State of Minnesota. Because these proposed changes will likely have an impact on projects that are intending to apply to Minnesota Management and Budget (MMB) for allocations of Private Activity Bonds starting on January 2, 2017 when a new federal entitlement of bonding authority becomes available, it is necessary that Minnesota Housing consider amendments to the QAPs at this time. Most affordable rental housing projects will not have a viable financing plan unless the projects also receive an allocation of 4% housing tax credits. Given the proposed changes, staff is also recommending that developers use a new pre-application for determination of 4% tax credit eligibility prior to applying for an allocation of Private Activity Bonds so they know whether the projects they are proposing will meet these new, higher standards.

Staff recommends that the proposed QAP amendments and policy changes apply to: (1) projects that submit an application for 4% tax credits on or after October 1, 2016; and projects that submitted an application for 4% tax credits prior to October 1, 2016 but have ~~not~~ been recommended for non-

selection (either as part of the RFP or as a pipeline application) on or prior to the date of this Board report. The requirements of the QAPs for 4% tax credit allocations in effect on September 30, 2016 will apply to all projects for which an application has been received by Minnesota Housing prior to October 1, 2016, and for which Minnesota Housing has not recommended non-selection.

Staff also recommends that the total development costs of all projects requesting 4% tax credits be reviewed for comparison with the Agency's predictive cost model and that any project with costs exceeding the predictive model by more than 25% will require a waiver from the Board.

Staff proposes that the Agency be open to receive public comments on the proposed amendments to the 2017 and 2018 QAPs from October 19 through November 16, 2016. Staff will review the public comments received and will present a final recommendation to the Board, taking into account the public comments, at its December 22, 2016 meeting. In the interim, staff recommends that the Board adopt a policy of not accepting applications for 4% housing tax credits or requests for Private Activity Bonds from Minnesota Housing between October 1, 2016 and December 22, 2016.

Current 4% Tax Credit Requirements:

Under the Minnesota Housing 2017 QAP, it is only necessary for a project to demonstrate that it is eligible for at least 30 points, as described in the QAP.

Under the Minnesota Housing 2018 QAP, it is necessary for a project to demonstrate that it is eligible for at least 40 points, as described in the QAP. The 2018 QAP also indicates that Minnesota Housing will not allocate 4% tax credits to support Private Activity Bonds in an amount greater than 53% of a project's eligible cost basis, as described in the low income housing tax credit rules.

| The Strategic Priority Policy Thresholds contained in ~~the~~ (both the 2017 and 2018~~2~~) QAPs, which require 9% projects to meet at least one of several policy goals (Access to Fixed Transit, Greater Minnesota Workforce Housing, Economic Integration, Tribal Housing, Planned Community Development, Preservation, and Supportive Housing), do not apply to projects using Private Activity Bonds and 4% tax credits. In addition, the requirement that projects maintain affordability for a minimum of 30 years also does not apply to projects using Private Activity Bonds and 4% tax credits. Owners of such projects retain the right to terminate the restrictions at the end of the 15-year compliance period in the event Minnesota Housing does not present the owner (if requested by owner) with a qualified contract for the acquisition of the project, as allowed for by IRS regulations.

Proposed Amended 4% Tax Credit Requirements:

Staff recommends that the Board approve the following changes to the 2017 QAP and the 2018 QAP and the related policy recommendations. The Agency will conduct a public comment period between October 19 and November 16, 2016 and staff will present a final recommendation for amendments to the 2017 QAP and the 2018 QAP at the Board meeting on December 22, 2016.

Recommended changes to the 2017 QAP and the 2018 QAP

- Increase the minimum score required to receive an allocation of 4% tax credits to 50 points.
- Add the requirement that a project must meet at least one Strategic Priority Policy Threshold in the QAP under which the project was selected.
- Require that owners of projects qualifying for 4% tax credits under the 2017 QAP and the 2018 QAP ~~to~~ maintain the credit units in the projects for at least 30 years and Sections 42(h)(6)(E)(i)(II) and 42(h)(6)(F) of the Internal Revenue Code shall not apply to the projects.

Recommended change to the 2017 QAP

- Include the requirement that when Minnesota Housing is the issuer of tax-exempt bonds, bonding authority will be allocated for no more than 53% of a project's eligible cost basis, as defined in the low income housing tax credit rules.

Recommended policy changes

- Minnesota Housing will institute a new pre-application for determination of 4% tax credit eligibility. This process will be available to developers as a means of receiving a tax credit

scoring determination prior to submitting an application for Private Activity Bonds to MMB or Minnesota Housing. Developers will be strongly encouraged to submit such a pre-application. Staff will provide details of the pre-application process to the public by November 1, 2016.

- Minnesota Housing will not consider requests for 4% tax credits or for allocations of Private Activity Bonds made between October 1, 2016 and December 22, 2016.
- Minnesota Housing will require a waiver from the Board for any project seeking 4% tax credits whose total development costs exceed the predictive model by more than 25%.